

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**RICHARD B. KELLY,**

Plaintiff,

V.

**JACOB NULL,**

Defendant.

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Civil No. **08-322-GPM**

**ORDER**

**PROUD, Magistrate Judge:**

Before the Court is plaintiff's motion for permission to take depositions at trial, and for the Court to forego taking motions for summary judgment because plaintiff cannot afford a court reporter to record depositions. **(Doc. 109).**

Plaintiff is under the mistaken belief that he cannot record witness statements in any manner other than deposition. Federal Rule of Civil Procedure 31 provides for deposition by written questions. Federal Rule of Civil Procedure 56, regarding motions for summary judgment, makes clear that answers to interrogatories, admissions on file and affidavits may also be used to support or defend a motion for summary judgment. Many litigants, even those not proceeding as paupers and who are not imprisoned, cannot afford depositions. That fact does not alter a party's right to seek summary judgment.

**IT IS THEREFORE ORDERED** that the subject motion **(Doc. 109)** is **DENIED**.

**IT IS SO ORDERED.**

**DATED: July 2, 2009**

**s/ Clifford J. Proud**  
**CLIFFORD J. PROUD**  
**U. S. MAGISTRATE JUDGE**